

***Environmental Assessment,
Finding of No Significant Impact, and Decision Record***

Prepared For:

USA Mining LLC Proposed Road Right-of-Way

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**ENVIRONMENTAL ASSESSMENT (EA) AZ-020-2005-0026
BLM CASE NUMBER: AZA-33011**

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ATTACHMENTS (Exhibits A and B)

1. Exhibit A, Topographic Land Status Location Map
2. Exhibit B, Stipulations to be Attached to Right-of-Way AZA-33011 (Pages 1-3)

FINDING OF NO SIGNIFICANT IMPACT/DECISION RECORD (Pages 1 and 2)

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**ENVIRONMENTAL ASSESSMENT
(AZ-020-2005-0026)**

I. INTRODUCTION: USA Mining LLC has made application for a right-of-way (BLM serial number AZA-33011) for a new road to obtain legal and physical access across public land to 200 acres of private land.

II. LOCATION OF THE PROJECT: The project is located approximately 1 to 1 ½ miles south of Humboldt, Arizona. The project area can be accessed from State Highway 69, between mileposts 277 and 278. The legal description of the project area is as follows:

Gila and Salt River Meridian, Arizona,
T. 13 N., R. 1 E.,
sec. 21, lot 30;
sec. 28, lot 1.

A topographic land status location map labeled *Exhibit A* is attached.

III. CONFORMANCE WITH APPLICABLE LAND USE PLAN AND OTHER DESIGNATIONS: The proposed action is within the area analyzed by the Phoenix Resource Management Plan (RMP) and Environmental Impact Statement (EIS) (1). The date of approval was September 29, 1989. This plan has been reviewed to determine if the proposed action conforms with the land use plan terms and conditions as required by Title 43 Code of Federal Regulations, part 1610.5. The proposed action is in conformance with the Phoenix RMP. According to the RMP, "*Land use authorizations (rights-of-way, leases, permits, easements) would continue to be issued on a case-by-case basis and in accordance with recommendations in this Proposed RMP/Final EIS*" (page 14). There are no special designations for the area.

IV. APPLICABLE LAWS, REGULATIONS, AND POLICY: The project proposal qualifies as a right-of-way and is permitted to be authorized by authority of the Federal Land Policy and Management Act of 1976 (P.L. 94-579). Applicable regulations for the proposed action, under this authority, are contained within Title 43 Code of Federal Regulations, part 2800.

V. NEED FOR THE PROPOSED ACTION: The right-of-way is needed for legal and physical access to private property.

VI. DESCRIPTION OF THE PROPOSED ACTION: The proposed action is to grant a right-of-way to USA Mining LLC (applicant) for a road across BLM-managed public land. This right-of-way would allow for construction, maintenance, operation, and termination of the road for the purpose of providing legal and physical access to private property.

The applicant would obtain access from State Highway 69 through an existing left-turn lane that accesses private property on the western side of the Highway. The applicant has an agreement in place with the private landowner to cross the private land to access public land. The segment that crosses public land, prior to his private property would qualify under the subject right-of-way. The attached map, *Exhibit A*, shows the proposed route. Additionally, the centerline survey that was provided for this road, also shows this detail. Please refer to the casefile for the centerline survey.

The length of the proposed road as it would cross public land is 1,840.26 feet (or about 1/3 miles), as depicted on the survey filed February 22, 2005. The total width of the right-of-way is proposed to be 60 feet. This proposed width would accommodate the applicant's request in light of any future

transfer of the right-of-way to the Yavapai County Public Works to become a public road. The public land that would be encumbered by this right-of-way is approximately 2.53 acres.

The proposed road area is entirely undisturbed. Construction of the road will require brush and vegetation removal. In addition, it is anticipated that minor cuts and fills along the slopes to build the road to a travelable standard. At this time paving is not anticipated, however, a gravel material may be applied to the road surface.

As part of the proposed action, the right-of-way would be authorized for a 30-year term with the right-of-way holder being eligible for a renewal authorization upon expiration.

The road will access 200 acres of private land that is proposed for development. From the appearance of the surrounding ownership and landscape, there are other routes of access to the parcel. The applicant has acknowledged that the only other route to the property is Iron King Road, which is to the north of the property. Please see further description of this in the No-Action Alternative segment.

The applicant will be notified of the advantages of possibly assigning this right-of-way to a homeowner's association that is potentially formed for the developed property. This would allow the respective members of the homeowner's association to have legal access to their property by the BLM right-of-way. Otherwise, if the 200 acres is proposed for homes, only the developer will have legal access, and the remaining landowners would have to consult with BLM on future access needs on an individual basis.

VII. DESCRIPTION OF NO-ACTION ALTERNATIVE: The no-action alternative was considered by the BLM as an alternative. This alternative would involve rejecting the application for the road right-of-way. This would require the applicant to consider other alternatives to get legal and physical access to their property. This could involve constructing a new road on other BLM-managed public land, or negotiating with private landowners or the State Land Department to obtain right-of-way for new or pre-existing roads to get to the property.

According to the applicant, the only other possible route is Iron King Road, which is to the north of the property. This alternative would require crossing private land owned by others and also would require crossing steep and difficult terrain which may make it impractical. According to the applicant, the Federal lands offer the shortest route to the destination lands (private lands) as well as the shortest distance to Highway 69, and offer less difficulty for construction and maintenance and offer an adequate transportation route to the private land.

VIII. AFFECTED ENVIRONMENT:

A. RESOURCE SPECIFIC ENVIRONMENT – BLM CRITICAL ELEMENTS: The following elements of the human environment are required to be addressed, at a minimum, in the preparation of environmental assessment documents. This is according to various executive orders and agency requirements:

1. Air Quality (*The Clean Air Act of 1955, as amended*): The air quality has not been measured for this proposal. There are vehicle emissions created from the traffic that uses State Highway 69 to access various towns (Mayer, Humboldt, Prescott). Additionally, there is development occurring throughout the area, which most likely contributes to an increase in dust matter in the air.

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2. Areas of Critical Environmental Concern (ACEC) (*Federal Land Policy and Management Act of 1976*): There are no designated ACEC's within the BLM project area limits.

3. Cultural Resources (*National Historic Preservation Act of 1966, as amended*): A cultural resource inventory was completed by a consultant, Circa Cultural Consulting, and a

report entitled *An Archaeological Survey of a Proposed Road Easement Near Humboldt, Arizona for USA Mining LLC*, February 2005, (3) was submitted to BLM. This report was reviewed.

The consultant surveyed an area with a total width of 60 meters (197 feet) along the proposed road right-of-way. Since the right-of-way would grant access across BLM-administered land to facilitate development of private property, consideration was given to whether it was adequate to limit the survey to the proposed right-of-way through federal land. Land ownership patterns clearly indicate that a number of potential alternative routes through private property could be used for access. The BLM route need not be the sole access to the USA Mining property, and therefore it is reasonable to limit the survey to the requested right-of-way itself.

The archaeologists documented three isolated occurrences, consisting of small numbers of artifacts that have been adequately recorded. They also observed that the proposed route crosses a segment of the historic Prescott & Eastern Railway, which has been previously designated as AZ N:11:28 (ASM).

The railroad segment in this area consists of the abandoned grade, with a few associated spikes and fragments of railroad ties. The railroad in this area was long ago stripped of nearly all construction materials. This segment contains very few artifacts and no original, constructed facilities such as culverts or retaining walls.

4. Environmental Justice (*Executive Order 12898*): According to Executive Order 12898 of February 11, 1994, all Federal actions must address and identify as appropriate, disproportionately high and adverse human health or environmental effects of its programs, policies, and activities on minority populations and low-income populations in the United States. The project proposal does not constitute an activity that will adversely affect minority populations and/or low-income populations in the United States.

5. Farmland, Prime/Unique (*Surface Mining Control and Reclamation Act of 1977*): There are not prime or unique farmlands within the BLM project area limits.

6. Floodplains (*Executive Order 11988*): Executive Order 11988, issued May 24, 1977, established responsibilities for Federal agencies in the management of floodplains. This order requires that each agency shall provide leadership and take action to: 1) minimize adverse impacts associated with the occupancy and modification of flood plains and reduce risks of flood loss, 2) minimize impacts of floods on human safety, health, and welfare, and 3) restore and preserve the natural and beneficial values served by floodplains. The Executive Order defines floodplain to mean the lowland and relatively flat areas adjoining inland and coastal waters including floodprone areas of off shore islands, including at a minimum, that area subject to a one percent or greater chance of flooding in any given year. There is no awareness of floodplains within the BLM project area limits.

7. Invasive/Non-native Plants (Weeds) (*Federal Noxious Weed Act*): The Federal Noxious Weed Act, Public Law 93-629 (7 U.S.C. 2801 et seq.; 88 Stat. 2148), enacted January 3, 1975, established a Federal program to control the spread of noxious weeds. Executive Order 13112 issued February 3, 1999 further defines the responsibilities of Federal agencies to prevent the introduction of invasive species and provide for their control by minimizing the economic, ecological and human health impacts that invasive species cause. There are not invasive/non-native plants (weeds) within the project area limits.

8. Native American Religious Concerns (*American Indian Religious Freedom Act of 1978*): Please refer to the “*Cultural Resources*” segment on page 3.

9. Threatened and Endangered (T&E) Species (*Endangered Species Act of 1973, as amended*): There are no records of, nor suitable habitat for, any listed threatened, endangered, proposed or candidate plant or wildlife species in the vicinity of the project area.

10. Wastes, Hazardous/Solid (*Resource Conservation and Recovery Act of 1976, and Comprehensive Environmental Response, Compensation, and Liability Act of 1980*): There are no hazardous or solid wastes within the BLM project area. Hazardous or solid wastes will not be used as part of the project proposal.

11. Water Quality (*Safe Drinking Water Act of 1974, as amended and Clean Water Act of 1977*): Water quality has not been measured for the project.

12. Wetlands/Riparian (*Executive Order 11990*): Executive Order 11990 of May 24, 1977 requires each agency to take action to minimize destruction, loss, or degradation of wetlands and to preserve and enhance the natural and beneficial values of wetlands. There are not wetlands or riparian areas within the BLM project area limits.

13. Wild & Scenic Rivers (*Wild and Scenic Rivers Act of 1968, as amended*): There are not wild and scenic rivers within the BLM project area limits. The proposed road does not cross any wild and scenic rivers.

14. Wilderness (*Federal Land Policy and Management Act of 1976 and Wilderness Act of 1964*): According to the Wilderness Act of September 3, 1964 (Public Law 88-577) there shall be no commercial enterprise and no permanent road within any wilderness area designated by this Act and, except as necessary to meet minimum requirements for the administration of the area for the purpose of this Act (including measures required in emergencies involving the health and safety of persons within the area), there shall be no temporary road, no use of motor vehicles, motorized equipment or motorboats, no landing of aircraft, no other form of mechanical transport, and no structure or installation within any such area. There are no designated wilderness areas within the BLM project area limits.

B. RESOURCE SPECIFIC ENVIRONMENT – OTHER RESOURCE ELEMENTS:

1. Access: There is access to the public land parcel from State Highway 69. Access will be achieved by first accessing private land, from State Highway 69, and then traveling to BLM land.

2. Lands, Realty, and Energy: There have been previous lands and realty actions in the area. These are as follows:

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- 1) Railroad Right-of-Way AZPHX-86588 to Atchison, Topeka, and Santa Fe Railway (Described as “Prescott & Eastern Railway” in the Cultural Resources segment of the Affected Environment and Environmental Impacts sections).
- 2) Highway Right-of-Way AZPHX-86069 to the Arizona Department of Transportation for a Title 23 Highway Appropriation from State Highway 69.

The proposed road right-of-way will cross the railroad right-of-way, AZPHX-86588. The field examination of the area revealed that this railroad right-of-way has had the physical structures (tracks, ties, etc.) removed. There are no major physical properties that reveal current use of this right-of-way.

The parcel of public land that is proposed to be crossed as part of this road right-of-way

proposal is not currently identified for disposal for sale under the Federal Land Policy and Management Act in the Phoenix RMP.

3. Migratory Birds: Under the Migratory Bird Treaty Act of 1918 and subsequent amendments (16 U.S.C. 703-711), it is unlawful to take, kill, or possess migratory birds. Executive Order 13186 issued January 11, 2001 further defines the responsibilities of Federal Agencies to protect migratory birds; a list of those protected birds can be found in 50 C.F.R. 10.13. The issuance of a right-of-way for this project would require the proponent to comply with the Migratory Bird Treaty Act and avoid potential impacts to those listed birds.

4. Mineral Actions: There are no active mining claims in the project area according to the LR2000 Mining Claim Report that was generated for the area on January 13, 2005.

5. Vegetation and Wildlife: The vegetation in this area is typical shrub-dominated interior chaparral, including such species as shrub live oak (*Quercus turbinella*), manzanita (*Arctostaphylos pungens*), emory oak (*Quercus emoryi*), wolfberry (*Lycium* spp.), and juniper (*Juniperus* spp.). Wildlife species that occur in the area are characteristic of the habitat type and include mule deer, javelina, various small mammals, migratory birds, and reptiles.

6. Standards for Rangeland Health (*Federal Land Policy and Management Act of 1976*): A review of Standards for Rangeland Health occurred.

7. Visual Resources: This area is included within the Phoenix RMP (1989) and does not have visual resource management (VRM) classes assigned. According to BLM Manual Handbook H-8410-1:

“Interim visual management classes are established where a project is proposed and there are not RMP approved VRM objectives. These classes are developed using the guidelines in Section I to IV and must conform with the land-use allocations set forth in the RMP which covers the project area. The establishment of interim VRM classes will not require a RMP amendment, unless the project that is driving the evaluation requires one.”

BLM Manual Handbook 8431-1 adds:

“... interim Visual Resource Management (VRM) classes will be developed using the guidelines in Handbook H-8410-1 except: (1) The inventory will be limited to the area affected by the project; and (2) the VRM classes will reflect the management decision made in existing RMP's.”

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Thus, under interim visual resource management, impacts to visual resources may not be used to preclude a project, however, mitigation to reduce impacts to visual resources may be required. An assessment of impacts to visual resources using interim visual resource management includes: 1) a review of land use allocation set forth in the RMP, 2) establishment of interim VRM classes; and 3) a rating of visual contrast posed by the proposed project, including suggested mitigation measures. A visual simulation of the proposed project is recommended for projects anticipated to have high impacts, and a viewshed analysis of the proposed project may also be completed to further quantify and demonstrate visual impacts. A viewshed analysis was calculated to show the estimated extend of visual impacts resulting from construction of the proposed road, but a visual simulation as not completed as impacts are not anticipated to be “high”.

Interim VRM Class: Per BLM Manual Handbook H-8410-1, an interim project-specific VRM inventory was completed prior to assessing potential impacts to visual resources from construction of the proposed project. VRM inventory field worksheets were completed (Forms 8400-1, 8400-5, and 8400-6) and document the assessment and establishment of

the project area as VRM Class IV. As noted in the worksheets, during the assessment process additional weight was accorded to public interest and sensitivity to change in visual contrast posed by the high amount of traffic on the adjacent State Highway 69.

According to BLM Manual Handbook H-8410-1, the management objective of VRM Class IV is:

“to provide for management activities which require major modification of the existing character of the landscape. The level of change to the characteristic landscape can be high. These management activities may dominate the view and be the major focus of viewer attention. However, every attempt should be made to minimize the impact of these activities through careful location, minimal disturbance, and repeating the basic elements.”

IX. ENVIRONMENTAL IMPACTS: It has been determined by BLM, PFO Resource Specialists that the following elements of the human environment (both critical elements and other resource elements) will not be impacted by the Proposed Action, nor the No-Action Alternative, because they either are not present or by evaluation it has been determined they will not be impacted.

Critical Elements

Areas of Critical Environmental Concern: Not present.

Cultural Resources: The historic railroad segment exhibits relatively poor integrity and should be considered as a non-contributing element to the National Register eligibility of the Prescott & Eastern Railway. This conclusion is consistent with the recommendations of archaeologists who have previously conducted studies along nearby segments of this railroad (reference – Stein and Skinner 1997). The conclusion is that the granting of the proposed right-of-way will have no adverse effects on cultural resources.

Environmental Justice: There will be no adverse impact on minority populations and/or low income populations in the United States.

Farmlands (Prime/Unique): Not present.

Floodplains: Not present.

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Invasive/Non-Native Plants (Weeds): Not present.

Native American Religious Concerns: See comment for “Cultural Resources” segment above.

Threatened and Endangered Species: The proposal would have no effect on any listed threatened, endangered, proposed, or candidate species. Consultation with the U.S. Fish and Wildlife Service is not required under the Endangered Species Act.

Wastes (Hazardous/Solid): Not present and not part of the project proposal.

Water Quality: No impacts to water quality are anticipated.

Wetlands/Riparian: Not present.

Wild and Scenic Rivers: Not present.

Wilderness: Not present.

Other Resource Elements

Access: The Arizona Department of Transportation (ADOT), Prescott District, was provided the opportunity to comment on the proposal. They did not respond with comments.

Lands/Realty and Energy: At the time of the writing of this EA, contact has been made with the current holder of the railroad right-of-way, BNSF Railway, to ascertain whether or not formal abandonment of this railroad right-of-way (AZPHX-86588) can occur. Although the railroad has had what appears as being all of the facilities removed, the right-of-way has not been formally abandoned through written correspondence to the BLM. As a result, the proposed road right-of-way to USA Mining will be made subject to this valid existing right. It is not anticipated that future conflict of uses will occur. Future follow-up will occur on this railway abandonment.

There will be no direct or indirect adverse impact on energy development, production, supply and/or distribution. A Statement of Adverse Energy Impact will not be prepared.

It is anticipated that there may be additional requests for infrastructure facilities (electricity, telephone, water, etc.) as a result of the planned subdivision and anticipated development of the private land.

Migratory Birds: No impacts are anticipated.

Mineral Actions: Not present.

Standards for Rangeland Health: No impacts are anticipated.

A. PROPOSED ACTION: Following is a brief description of various elements where discussion is needed to describe impacts associated with implementation of the proposed action:

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1. Air Quality: In general the impacts associated with air quality on the public land are anticipated to be minor, temporary and short term in nature. Increased emissions of particulate matter and/or dust will likely occur as a result of soil disturbance associated with vegetation removal, construction activities, and movement of construction equipment. However, the use of water during construction activities and the subsequent application of acceptable soil stabilizing techniques could reduce the potential emissions. A localized increase in emissions of Carbon Monoxide (CO) will also likely occur from construction equipment utilized during construction. A short-term slight increase in CO emissions may be expected due to increased vehicle traffic during construction. Once construction is complete, there are no anticipated impacts on air quality due to operation and maintenance of the road on the public land. Travel and driving that occurs on the road will cause minor air quality disturbance as a result of dust.

2. Vegetation and Wildlife: Vegetation would be impacted by clearing the area for construction of a new road. Individuals from larger, more mobile wildlife species will likely move out of the area due to construction activities. Individuals from smaller, less mobile wildlife species will likely be killed during construction. Constructing a roadway will add vehicles and possibly increase wildlife mortality. If the road is paved in the future, road mortality would like increase over time due to increased traffic volume and speeds.

3. Visual Resources: Please refer to the following:

Visual Contrast Rating: Per BLM Manual Handbook 8431-1, a visual contrast rating worksheet

for the proposed project was completed (Form 8410-1). The level of change resulting from the proposed project is anticipated to be “moderate” in relation to the line, color, and texture of the existing landscape, and “moderate” with respect to the line of vegetation. The proposed project is not expected to pose a measurable visual contrast with existing structures, which include a narrow paved access road to an adjacent residence, barbed-wire range fences, a powerline on wooden poles, State Highway 69, and a residence on the east side of State Highway 69. As stated above, the primary impact is anticipated to be on the visual quality of the scenery experienced by passing motorists on State Highway 69; however, the period of time the proposed project is in view of motorists will be short. The residence on the east side of State Highway 69, opposite the proposed project site, will have a direct view of the proposed road.

Viewshed Analysis: A viewshed analysis was calculated to quantify the area extent of the impacts measured by the visual contrast rating worksheet. This analysis showed that the “moderate” impacts to visual quality posed by the proposed road and discussed above will be visible from approximately 987 acres of adjacent public land, 578 acres of private land, and 397 acres of state trust land. These figures were estimated using a maximum visible distance for the proposed road of 2 miles. Judging from similar road construction of the area; the rolling, mountainous terrain of the project area; and the winding nature of the primary travel artery (State Highway 69), a maximum viewing distance of 2 miles was judged to be appropriate.

B. NO-ACTION ALTERNATIVE: The no-action alternative could potentially cause new disturbance on other Public, Private, or State Land as a result of new roads being constructed. BLM-managed public land may be impacted in terms of air quality, soils, vegetation, and wildlife resources as a result of selecting the no-action alternative. Should the no-action alternative be selected, a new proposal that is submitted that crosses public land through another route would be evaluated with a new environmental assessment at that time. At this time, the no-action alternative simply rejects the application and does not analyze a separate route on public land, and assumes no impacts.

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X. CUMULATIVE IMPACTS:

A. PROPOSED ACTION: There will be no adverse cumulative impacts on the public land as a result of implementation of the proposed action. The proposed action allows the use of the public land for a road right-of-way that provides ingress and egress access to parcels of private land. It is reasonable to predict that the past actions, combined with this present action, and reasonably foreseeable future actions, will not have adverse cumulative impacts on the public land in this area. As described above, it is reasonable to predict that future infrastructure needs for the developed land (such as electricity, phone, etc.) will be requested through our office.

B. NO-ACTION ALTERNATIVE: The no-action alternative would require the applicant to select another route for the road right-of-way. If the route was on public land, a new road would have to be constructed. At this time cumulative impacts, assuming the rejection of the application, assumes there are no cumulative impacts on the public land resulting from the no-action alternative.

XI. DESCRIPTION OF MITIGATION MEASURES: The following describes the mitigation measures that are applicable to the proposed action:

A. Air Quality: To minimize the impacts to the air quality of the area, the applicant should be required to use water or other acceptable soil stabilization technique during construction activities to reduce the potential emissions. The applicant should be required to adhere to all applicable air quality rules and regulations.

B. Vegetation and Wildlife: The recommendations are to 1) Minimize vegetative disruption in the area surrounding the right-of-way, 2) Incorporate erosion control measures into road design to reduce downstream sedimentation, and 3) Road design should include measures to discourage off-road driving and increased motorized incursions into the surrounding area.

The plants that are removed during the course of maintenance activities should not remain on BLM managed public land. The holders should dispose of these plants in an appropriate and legal off-site location. Upon the completion of maintenance activities that disturb the surface, the land should be left in as near as its existing condition as possible, with areas smoothed and contoured and left clean.

C. Visual Resources: No mitigation measures beyond standard road engineering and construction best practices are recommended to mitigate visual impacts.

The stipulations that would be carried forward to the right-of-way grant terms and conditions are attached as *Exhibit B*. These include stipulations formulated for the above-described mitigation measures.

XII. RESIDUAL IMPACTS: The residual impacts associated with the proposed action are minor, and are related to soil and vegetative and visual resources. Regardless of the mitigation measures that are implemented, the soils, vegetation, and visual aspects of the current area will not remain in their existing condition. As long as maintenance and travel occurs along the proposed roadway soils will be exposed, vegetation will remain removed, and the road will be visible.

XIII. INDIRECT IMPACTS: Addressing indirect impacts that relate to this project are not clear. Some perspectives may share that the indirect impacts are those that occur on the developed private land as a result of the right-of-way being authorized for access to this parcel. Other perspectives may be that development will occur regardless if the right-of-way is authorized. This short segment is an attempt to respond to this issue.

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The assumption is that because access can occur from other routes that are not on public land (namely Iron King Road to the north), rejection of the subject right-of-way application does not altogether impair the development of this land. If the right-of-way was not authorized on public land, it is reasonable to predict that development of this parcel would still occur, and access would be achieved by other means. As a result, it is believed that indirect impacts that occur on the private land are not wholly facilitated by the granting of this right-of-way and the BLM is evaluating the subject project to the extent that is necessary.

XIV. PERSONS AND AGENCIES CONSULTED:

- ? Mr. D. Dean Bibles, Booz Allen Hamilton
- ? Mr. John Fought, Arizona Department of Transportation, Prescott District
- ? Mr. Mark Matulis, USA Mining LLC
- ? BLM, PFO Specialists (Mr. Jim Andersen, Team Lead for Lands and Realty; Ms. Myrna Galaz, Realty Specialist; Mr. Jeff Garrett, Team Lead for Minerals; Mr. Rich Hanson, Team Lead for Archaeology, Recreation, and Wilderness; Mr. Lee Higgins, Team Lead for Rangeland Health; Ms. Cristen Jester, Wildlife Biology; Mr. Dave Scarbrough, Planning & Environmental Coordinator, Ms. Connie Stone, Archaeologist)

XV. LIST OF REFERENCES:

- 1) Phoenix Resource Management Plan and Environmental Impact Statement
- 2) Circa Cultural Consulting, *An Archaeological Survey of a Proposed Road Easement Near Humboldt, Arizona for USA Mining LLC*, February 2005

XVI. PREPARER'S AND REVIEWER'S SIGNATURE

Prepared by: /s/ Myrna Galaz Date: 03/28/2005
Myrna Galaz, Realty Specialist
BLM, Phoenix Field Office

Reviewed by: ___/s/ Jim Andersen_____ Date: ___03/29/2005_____
Jim Andersen, Team Lead for Lands and Realty
BLM, Phoenix Field Office

Exhibit B: AZA-33011 Right-of-Way Stipulations

1. The holder shall comply with all State and Federal laws applicable to the authorized use and such additional State and Federal laws, along with the implementing regulations, that may be enacted and issued during the term of the grant.
 2. The right-of-way grant herein granted shall be subject to the express covenant that it will be modified, adapted, or discontinued if found by the Secretary to be necessary, without liability or expense to the United States, so as not to conflict with the use and occupancy of the land for any authorized works which may hereafter constructed thereon under the authority of the United States.
 3. The right-of-way reserves to the Secretary of the Interior, or lawful delegates, the right to grant additional rights-of-way, leases, or easements for compatible uses over, under, within or adjacent to the lands involved in this grant.
 4. The holder shall conduct all activities associated with the construction, operation, inspection, maintenance, and termination of the right-of-way within the authorized limits of the right-of-way except as provided below, or unless otherwise authorized in writing by the Authorized Officer.
 5. The holder shall confine all vehicular traffic to the authorized limits of the right-of-way, except as provided below, or unless otherwise authorized in writing by the Authorized Officer.
 6. The holder shall minimize vegetative disruption. No vegetative material that is removed shall be disposed of either within the right-of-way or on any other federal land. Instead, the holder shall dispose of all vegetative material that is removed at legal off-site locations.
 7. No excess or unsuitable excavated materials shall be disposed of either within the right-of-way or on any other federal land. Instead, the holder shall dispose of all excess and unsuitable excavated materials at legal off-site locations. In no case may the excess or unsuitable excavated materials be sold without prior notification and approval, if necessary, from the Authorized Officer.
 8. No debris or refuse shall be disposed of either within the right-of-way or on any other federal land. Instead, the holder shall dispose of all debris and refuse at legal off-site locations.
 9. The holder shall fully indemnify or hold harmless the United States for any liability, for damage, or claims arising in connection with the holder's use and occupancy of the right-of-way.
 10. The holder shall not use BLM-managed public land that is adjacent to and outside the right-of-way for the storage of any materials, equipment, or vehicles during any construction, operation, maintenance, and/or termination activities associated with the right-of-way.
 11. Any cultural and/or paleontological resource (historic or prehistoric site or object) discovered by the holder, or any person working on his behalf, on public or Federal land shall be immediately reported to the Bureau of Land Management Authorized Officer. The holder shall suspend all operations in the immediate area of such discovery until written authorization to proceed is issued by the Authorized Officer. An evaluation of the discovery will be made by the Authorized Officer to determine appropriate actions to prevent the loss of significant cultural or scientific values. The holder shall be responsible for the cost of evaluation and any decision as to proper mitigation measures that will be made by the Authorized Officer after consulting with the holder.
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12. The holder shall be responsible for weed control on disturbed areas within the limits of the right-of-way. The holder is responsible for consultation with the Authorized Officer and/or local authorities for acceptable weed control methods (within the limits imposed in the grant stipulations).

13. The holder shall not violate applicable air standards or related facility siting standards established by or pursuant to applicable Federal, State, or local laws or regulations. The Holder shall be responsible for dust abatement within the limits of the right-of-way area and is responsible for obtaining all necessary permits from appropriate authorities for acceptable dust abatement and control methods (e.g., water, chemicals). The Holder shall be solely responsible for all violations of any air quality permit, law or regulation, as a result of its action, inaction, use or occupancy of the right-of-way.
14. Notwithstanding whether a violation of any air quality permit, law or regulation results, the Holder will cooperate with the Authorized Officer in implementing and maintaining reasonable and appropriate dust control methods in conformance with law and appropriate to the circumstances at the sole cost of the Holder.
15. Prior to relinquishment, abandonment, or termination of this right-of-way, the Holder shall apply reasonable and appropriate dust abatement and control measures to all disturbed areas. The abatement and measures shall be designed to be effective over the long-term (e.g., rock mulch or other means), acceptable to the Authorized Officer, and meet Air Quality requirements.
16. The holder is responsible for compliance with the Migratory Bird Treaty Act of 1918 and subsequent amendments (16 U.S.C. 703-711). It is unlawful to take, kill, or possess migratory birds. A list of those protected birds can be found in 50 C.F.R. 10.13.
17. The holder agrees to indemnify the United States against any liability arising from the release of any hazardous substance or hazardous waste (as these terms are defined in the Comprehensive Environmental Response, Compensation and Liability Act of 1980, 42 U.S.C. 9601, et. seq. or the Resource Conservation and Recovery Act of 1976, 42 U.S.C. 6901 et. seq.) on the right-of-way, unless the release or threatened release is wholly unrelated to the right-of-way holder's activity on the right-of-way. This agreement applies without regard to whether a release is caused by the holder, its agent, or unrelated third parties.
18. The holder agrees to incorporate erosion control measures into road design and to construct, maintain, and operate the road within the limits of safe engineered road standards.
19. The holder shall notify the Authorized Officer prior to paving any part of the road right-of-way area. No paving of any part of the right-of-way shall occur without a written Notice to Proceed that is issued by the Authorized Officer.
20. The holder shall notify the Authorized Officer prior to the installation of fences or gates within the right-of-way area. No fences or gates shall be installed within the right-of-way area, or on other public land, without a written Notice to Proceed that is issued by the Authorized Officer.
21. At least 60 days prior to termination of the right-of-way, the holder shall contact the Authorized Officer to arrange a joint inspection of the right-of-way. This inspection will be held to agree to an acceptable termination (and rehabilitation) plan. This plan shall include, but is not limited to, removal of facilities, drainage structures, or surface material, recontouring, topsoiling, or seeding. The Authorized Officer must approve the plan in writing prior to the holder's commencement of any termination activities.

22. The holder agrees that the right-of-way is made subject to all valid existing rights, which includes the existing railroad right-of-way AZPHX-86588.
23. Any changes, modifications, amendments, transfers, or assignments of this right-of-way authorization require prior written approval from the Authorized Officer.

FINDING OF NO SIGNIFICANT IMPACT and DECISION RECORD

for

USA Mining LLC Proposed Road Right-of-Way

Environmental Assessment: AZ-020-2005-0026

(BLM Case: AZA-33011)

I. FINDING OF NO SIGNIFICANT IMPACT (FONSI):

BACKGROUND: A FONSI determination was made for EA number AZ-020-2005-0026 and the Decision Record approved the proposed action by the document signed on March 29, 2005.

A new centerline survey for the road was completed and received in our office on April 19, 2005. This new road survey slightly adjusted the location of the road. The width remained the same, 60 feet, and the length increased slightly to 1,844.19 feet. The acreage of the road increased by 0.01 of an acre from 2.53 acres to 2.54 acres in size.

The action remains within the scope of the EA that was prepared. The cultural resources report was examined in light of this new information and determined to be adequate. The analysis that is described in the existing EA is adequate for all other resources.

The action here is to document by Decision the replacement of the original road survey (filed February 22, 2005) with the new road survey (filed April 19, 2005).

BRIEF OVERVIEW OF ALTERNATIVES:

- Proposed Action Alternative: USA Mining LLC requests to obtain a right-of-way authorization for a road across public land. The purpose is to construct a new road across public land that would allow USA Mining LLC to obtain legal and physical access to private property. The right-of-way would be 60 feet in width, 1,844.19 feet in length (in accordance with the survey filed on April 19, 2005) and be granted for a 30-year term with the right-of-way renewal upon expiration.
- No-Action Alternative: Selection of this alternative would deny the application request made by USA Mining LLC for a right-of-way across public land. USA Mining LLC would be required to evaluate alternate routes to achieve their legal and physical access goals.

STATEMENT OF NO SIGNIFICANT IMPACT: I have reviewed the Environmental Assessment (EA: AZ-020-2005-0026) including the explanation and resolution of any significant environmental impacts. Based on the analysis of the potential environmental impacts contained within this EA, public involvement throughout the development of the analysis (the information was posted on the project listing webpage on the az.blm.gov website), and all other information available to me, I have determined that the Proposed Action Alternative, with mitigating measures described in the environmental assessment, will not have any significant impacts on the human environment and that an Environmental Impact Statement (EIS) is not required. I have determined that the Proposed Action is in conformance with the approved land use plan.

Rational for No Significant Impact Finding: The following are rationale that applies to the finding of no significant impact:

- 1) Through the analysis conducted in the environmental assessment, it is clear there are no impacts on the following critical elements: Areas of Critical Environmental Concern, Environmental Justice, Farmlands (Prime, Unique) Floodplains, Invasive/Non-native Plants (Weeds), Native American Religious Concerns, Threatened and Endangered Species, Wastes, Hazardous/Solid, Wetlands/Riparian, Wild and Scenic Rivers, Wilderness, or Standards for Rangeland Health.
- 2) Impacts that relate to Air Quality will be minor and can be adequately mitigated for the project to occur. USA Mining LLC will be required to adhere to all rules and regulations as they apply to meet Air Quality rules and regulations.
- 3) Soils, vegetation, and wildlife will not be significantly impacted.
- 4) There will be no direct or indirect adverse impact on energy development, production, supply and/or distribution. A Statement of Adverse Energy Impact will not be prepared.
- 5) Cumulative impacts that relate to this project are not expected to be significant.
- 6) Residual impacts that relate to this project are not significant.
- 7) The proposal has been evaluated in terms of context and intensity as per the criteria set forth in 43 CFR 1508.27.

II. DECISION RECORD: It is my decision to rescind the original FONSI/Decision Record dated March 29, 2005 that implemented the proposed action based on the original survey provided on February 22, 2005. It is my decision to implement the proposed action described above as the preferred alternative and authorize a right-of-way to USA Mining LLC for a dirt road. The right-of-way will be 60 feet wide and 1,844.19 feet long, as set forth in the survey filed on April 19, 2005. The public land that will be encumbered by this right-of-way is 2.54 acres, more or less. No surface disturbance is permitted beyond the 60 foot right-of-way width. The right-of-way will be for a 30-year term, with the right of renewal upon expiration.

The no-action alternative was not chosen because it could result in more disturbance beyond what is proposed in the preferred alternative.

It is my decision to adopt all of the mitigation measures described in the environmental assessment. These will be incorporated into the terms and conditions of the right-of-way grant as stipulations. The stipulations that are attached to the environmental assessment as *Exhibit B* shall be made part of the right-of-way terms and conditions.

Rationale for the Decision: This decision is in conformance with the approved land use plan. According to a resource review made of the project, there will be no significant impact to any of the critical elements listed in the environmental assessment. The project will not cause unnecessary nor undue degradation to the public land. Implementation of this decision will not cause, nor will it add to adverse cumulative impacts on the public land.

/s/ Ralph Costa
For Field Manager, Phoenix Field Office

Date: 04/27/2005